

Application No.: 09/685,189

Page 4

157. (New) The polypeptide of claim 149, comprising a sequence having at least 98% sequence identity over the entire length of a sequence selected from the group consisting of: SEQ ID NO:40, SEQ ID NO:41, SEQ ID NO:42, SEQ ID NO:45, SEQ ID NO:52, SEQ ID NO:54, and a fragment thereof which exhibits an antiproliferative activity in a human Daudi cell line-based cell proliferation assay or an antiviral activity in a human WISH cell/EMCV-based assay.

These amendments are made without prejudice and are not to be construed as abandonment of the previously claimed subject matter or agreement with any objection or rejection of record. In accordance with the requirements of 37 C.F.R. § 1.121, a marked up version showing the changes to the claims, is attached herewith as Appendix A. For the Examiner's convenience, a complete claim set of the currently pending claims is also submitted herewith as Appendix B.

REMARKS

Election/Restriction.

Restriction

Claims 1-148 are subject to a restriction requirement. The Examiner divided the claims into nine groups as indicated below.

- I. Claims 1-30, 66, 67, 89-92, 104, and 106-199
- II. Claims 31-63, 105, 120, 121, 124-132, 147, and 148
- III. Claims 64, 65, and 133
- IV. Claims 68-70 and 134-136
- V. Claims 71-76 and 137-142
- VI. Claims 77-80 and 143-145
- VII. Claims 81-88 and 122
- VIII. Claims 93-103
- IX. Claim 123

Applicants elect Group II, without traverse, and cancel non-elected claims 1-30, 64-104, 106-119, 122, 123, and 133-146 with entry of this amendment. Please note, however, that Applicants reserve the right to file subsequent applications claiming the canceled subject matter and

Application No.: 09/685,189
Page 5

the claim cancellations should not be construed as abandonment of any presently or previously claimed subject matter or agreement with any objection or rejection of record.

Election of Species

The Examiner further requires that a single species selected from among the SEQ ID NOs and the variants of claims 3 or 34 be elected for examination. Applicants elect the polypeptide of SEQ ID NO:41, without traverse, for purposes of examination. Applicants note that additional species are to be examined, in the event that the elected species is found to be patentable, pursuant to the procedure outlined in MPEP § 803.02.

Status of the Claims.

Claims 31-63, 105, 120, 121, 124-132, 147, and 148-157 are pending with entry of this amendment, claims 1-30, 64-104, 106-119, 122, 123, and 133-146 being cancelled as drawn to non-elected inventions, and claims 149-157 being added herein.

Claims 34 and 36 are amended herein to further clarify the invention. These amendments introduce no new matter.

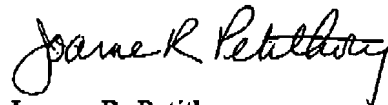
With respect to new claims 149-157, Applicants believe that no undue burden is presented by consideration of these claims with the claims of restriction Group II in that they read upon the elected species (SEQ ID NO:41). In the event that a restriction is applied between original Group II claims 31-63, 105, 120, 121, 124-132, 147, and 148, drawn to polypeptides, and new claims 149-157, also drawn to polypeptides, Applicants elect claims 149-157 for examination. Support for claims 149-157 can be found throughout the specification; for example, page 73, line 1 to page 75, line 28; and page 71, lines 1-10.

If a telephone conference would expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (650) 298-5452.

Maxygen, Inc.
515 Galveston Drive
Redwood City, CA 94587

Phone: (650) 298-5300 (main)
Fax: (650) 298-5446

Respectfully submitted,



Joanne R. Petithory
Reg. No. 42,995

Application No.: 09/685,189

Page 6

APPENDIX A"MARKED UP" CLAIMS ILLUSTRATING THE AMENDMENTS MADE TO THECLAIMS OF 09/685,189 WITH ENTRY OF THIS AMENDMENT

34. (Amended) An isolated or recombinant polypeptide, comprising:

the amino acid sequence: CDLPQTHSLG-X₁₁-X₁₂-RA-X₁₅-X₁₆-LL-X₁₉-QM-X₂₂-R-X₂₄-S-X₂₆-FSCLKDR-X₃₄-DFG-X₃₈-P-X₄₀-EEFD-X₄₅-X₄₆-X₄₇-FQ-X₅₀-X₅₁-QAI-X₅₅-X₅₆-X₅₇-HE-X₆₀-X₆₁-QQTFN-X₆₇-FSTK-X₇₂-SS-X₇₅-X₇₆-W-X₇₈-X₇₉-X₈₀-LL-X₈₃-K-X₈₅-~~X₈₆~~-ST-X₈₈-L-X₉₀-QQLN-X₉₅-LEACV-X₁₀₁-Q-X₁₀₃-V-X₁₀₅-X₁₀₆-X₁₀₇-X₁₀₈-TPLMN-X₁₁₄-D-X₁₁₆-ILAV-X₁₂₁-KY-X₁₂₄-QRITLYL-X₁₃₂-E-X₁₃₄-KYSPC-X₁₄₀-WEVVRAEIMRSFSFSTNLQKRLRRKE, or a conservatively substituted variation thereof;

wherein X₁₁ is N or D; X₁₂ is R, S, or K; X₁₅ is L or M; X₁₆ is I, M, or V; X₁₉ is A or G; X₂₂ is G or R; X₂₄ is I or T; X₂₆ is P or H; X₃₄ is H, Y or Q; X₃₈ is F or L; X₄₀ is Q or R; X₄₅ is G or S; X₄₆ is N or H; X₄₇ is Q or R; X₅₀ is K or R; X₅₁ is A or T; X₅₅ is S or F; X₅₆ is V or A; X₅₇ is L or F; X₆₀ is M or I; X₆₁ is I or M; X₆₇ is L or F; X₇₂ is D or N; X₇₅ is A or V; X₇₆ is A or T; X₇₈ is E or D; X₇₉ is Q or E; X₈₀ is S, R, T, or N; X₈₃ is E or D; X₈₅ is F or L; ~~X₈₆ is S or Y~~; X₈₈ is E or G; X₉₀ is Y, H, N; X₉₅ is D, E, or N; X₁₀₁ is I, M, or V; X₁₀₃ is E or G; X₁₀₅ is G or W; X₁₀₆ is V or M; X₁₀₇ is E, G, or K; X₁₀₈ is E or G; X₁₁₄ is V, E, or G; X₁₁₆ is S or P; X₁₂₁ is K or R; X₁₂₄ is F or L; X₁₃₂ is T, I, or M; X₁₃₄ is K or R; and X₁₄₀ is A or S.

36. (Amended) The polypeptide of claim 34, comprising a sequence selected from the group consisting of SEQ ID NO:36 to SEQ ID NO:46 and SEQ ID NO:48 to SEQ ID NO:54.

149. (New) An isolated or recombinant polypeptide comprising a sequence having at least 96% sequence identity over the entire length of a sequence selected from the group consisting of: SEQ ID NO:40, SEQ ID NO:41, SEQ ID NO:42, SEQ ID NO:45, SEQ ID NO:52, SEQ ID NO:54, and a fragment thereof which exhibits an antiproliferative activity in a human Daudi cell line-based cell proliferation assay or an antiviral activity in a human WISH cell/EMCV-based assay.

Application No.: 09/685,189

Page 7

150. (New) The polypeptide of claim 149, comprising a sequence having at least 96% sequence identity over the entire length of SEQ ID NO:40 or a fragment thereof which exhibits an antiproliferative activity in a human Daudi cell line-based cell proliferation assay or an antiviral activity in a human WISH cell/EMCV-based assay.

151. (New) The polypeptide of claim 150, comprising a sequence selected from the group consisting of SEQ ID NO:40, SEQ ID NO:41, SEQ ID NO:46, and a fragment thereof which exhibits an antiproliferative activity in a human Daudi cell line-based cell proliferation assay or an antiviral activity in a human WISH cell/EMCV-based assay.

152. (New) The polypeptide of claim 149, comprising a sequence having at least 96% sequence identity over the entire length of SEQ ID NO:41 or a fragment thereof which exhibits an antiproliferative activity in a human Daudi cell line-based cell proliferation assay or an antiviral activity in a human WISH cell/EMCV-based assay.

153. (New) The polypeptide of claim 152, comprising a sequence selected from the group consisting of SEQ ID NO:41, SEQ ID NO:40, SEQ ID NO:46, SEQ ID NO:39, SEQ ID NO:45, SEQ ID NO:36, and a fragment thereof which exhibits an antiproliferative activity in a human Daudi cell line-based cell proliferation assay or an antiviral activity in a human WISH cell/EMCV-based assay.

154. (New) The polypeptide of claim 149, comprising a sequence having at least 96% sequence identity over the entire length of SEQ ID NO:45 or a fragment thereof which exhibits an antiproliferative activity in a human Daudi cell line-based cell proliferation assay or an antiviral activity in a human WISH cell/EMCV-based assay.

155. (New) The polypeptide of claim 154, comprising a sequence selected from the group consisting of SEQ ID NO:45, SEQ ID NO:36, SEQ ID NO:46, SEQ ID NO:41, SEQ ID NO:39, SEQ ID NO:42, and a fragment thereof which exhibits an antiproliferative activity in a human Daudi cell line-based cell proliferation assay or an antiviral activity in a human WISH cell/EMCV-based assay.

Application No.: 09/685,189
Page 8

156. (New) The polypeptide of claim 149, comprising a sequence having at least 97% sequence identity over the entire length of a sequence selected from the group consisting of: SEQ ID NO:40, SEQ ID NO:41, SEQ ID NO:42, SEQ ID NO:45, SEQ ID NO:52, SEQ ID NO:54, and a fragment thereof which exhibits an antiproliferative activity in a human Daudi cell line-based cell proliferation assay or an antiviral activity in a human WISH cell/EMCV-based assay.

157. (New) The polypeptide of claim 149, comprising a sequence having at least 98% sequence identity over the entire length of a sequence selected from the group consisting of: SEQ ID NO:40, SEQ ID NO:41, SEQ ID NO:42, SEQ ID NO:45, SEQ ID NO:52, SEQ ID NO:54, and a fragment thereof which exhibits an antiproliferative activity in a human Daudi cell line-based cell proliferation assay or an antiviral activity in a human WISH cell/EMCV-based assay.